

**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR COLDWATER COVE TOWNHOMES (A PLANNED UNIT DEVELOPMENT)**

This DECLARATION, made on this the 2nd day of September, 2009, by Gary Phillips Construction, LLC, hereinafter referred to as "Declarant."

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property in the 10<sup>th</sup> Civil District, County of Washington, State of Tennessee, which is more particularly described as follows:

Being that 4.44 acres described on that plat entitled Planned Unit Development Location Plat, Tract II, Replat Cold Water Cove Subdivision Units A1-C6, as recorded in the Register's Office for Washington County, Tennessee, in Plat Book 20, page 152, to which reference is here made.

But reserving and accepting from said conveyance:

1. Those units set forth on said plat numbered A1 through A6, B1 through B6 and C1 through C6, and the land directly under each unit.
2. That land designated as future development on said plat.
3. The right of the Declarant, or its successors or assigns, to an easement over, along, across and under that shaded portion of said property marked COLDWATER DRIVE extending from the Bristol Highway to the FUTURE DEVELOPMENT AREA, for ingress, egress, all utilities and all other uses the Declarant or its successors and assigns may desire, to service adjoining properties and otherwise.

NOW THEREFORE, Declarant hereby declares that all of the properties described above, as well as the individual unit lots described as units A1 through C6, shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof,

THIS INSTRUMENT WAS PREPARED BY:

Carl McInturff  
801 Sunset Dr.  
Johnson City TN. 37604

**ROLL/IMG: 658/667-681  
09017400**

15 PGS : AL - RESTRICTIONS	
CHRISTY BATCH: 23386	
09/02/2009 - 12:50 PM	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	75.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	77.00

STATE OF TENNESSEE, WASHINGTON COUNTY  
**GINGER B. JILTON**  
REGISTER OF DEEDS

**ARTICLE I**  
**DEFINITIONS**

**Section 1:** "Association shall mean and refer to ColdWater Cove Townhouse Owners, Inc., its successors and assigns:

**Section 2:** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Unit which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 3:** "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 4:** "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first Unit is described above, but excludes Units A1 through A6, B1 through B6 and C1 through C6 on the plat of Planned Unit Development Location Plat, Tract II, Replat Cold Water Cove Subdivision Units A1-C6 of record in Plat Book 20, Page 152, Register's Office for Washington County, Tennessee, and further excludes the decks attached to the respective Units. The paved drive as shown on the aforesaid plat shall be a Limited Common Area for the exclusive use of that Unit it serves for the use and benefit of such Unit Owner, their heirs, successors and assigns. The cost and responsibility for maintenance of the easement shall be the responsibility of the Association.

**Section 5:** "Limited Common Area" shall mean the deck attached to the rear of each individual Unit and the driveway between the street and the Unit, which shall be deemed to be owned by the Association for the use and enjoyment of the individual Unit owner.

**Section 6:** "Unit" shall mean and refer to any Unit of land shown upon the recorded subdivision map of record in Plat Book 20, Page 152,, Register's Office aforesaid, the attached deck not being deemed to be a part of the Unit.

**Section 7:** The boundary lines of each Unit are those shown on the Plat, provided however, if there is any variation between the distances as shown on the Plat and the actual distances for the boundary walls of any Unit, the actual distances and actual location of the boundary walls shall prevail.

**Section 8:** "Declarant" shall mean and refer to Gary Phillips Construction, LLC, its successors and assigns.

## ARTICLE II

### PROPERTY RIGHTS

Section 1: Owner's Easements of Enjoyment: Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

- (a) The right of the Association to charge reasonable assessment and other fees for the taxes and maintenance of said Limited Common Areas and Common Areas;
- (b) The right of the Association to suspend the voting rights of an owner for any period during which any assessment against his Unit remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- (c) The right of the Association to dedicate or transfer all or any part of the Limited Common Area and Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 67% of each class of members has been recorded.
- (d) The Association shall have the right to insure that every Unit Owner provides proof of homeowners insurance to the Association for the interior and exterior of said unit and if a Unit Owner shall fail to provide proof of insurance, the Association shall be authorized to but shall not be obligated to obtain insurance coverage on behalf of such Unit Owner and to file a lien for the cost of said coverage against that Unit.

Section 2: Delegation of Use: Any owner may delegate, in accordance with the ByLaws, his right of enjoyment to the Limited Common Area and Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

## ARTICLE III

### MEMBERSHIP AND VOTING RIGHTS

Section 1: Every owner of a Unit which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment.

Section 2: The Association shall have the following voting membership: Owner's Voting: Voting members shall be all Owners, and shall be entitled to one vote for each Unit. When more than one person holds an interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Unit.

## ARTICLE IV

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each Unit owned within the Properties, hereby covenants, and each Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the, Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereafter provided. The annual and special assessments, together with interests, costs and reasonable attorney's fee, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fee, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fee is due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2: Purposes of Assessments: The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Limited Common Area, the Common Area, and of the Units situated upon the Properties. The said assessments shall also include, but are not limited to, water bills, landscaping, monitoring of the sprinkler and security systems and insurance. The developer and, after control passes to the Unit Owners, the Association, shall retain the right to meter each unit for water usage and bill each Unit Owner separately for each Units usage.

Section 3: Notice and Quorum for Any Action Authorized Under Section 3: A majority of Unit Owners must be represented at any meeting to constitute a Quorum.

Section 4: Uniform Rate of Assessments: Both annual and special assessments must be fixed at a uniform rate for all Units and may be collected on a monthly basis.

Section 5: Date of Commencement of Annual Assessments: Due Date: The annual assessments provided for herein shall commence as to all Units on the first day of each month following their conveyance from Declarant to a new owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Unit at least thirty days in advance of each annual assessment. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid. A properly executed certificate of the Association as to the status of assessments on a Unit is binding upon the Association as of the date of its issuance.

Section 6: Effect of Nonpayment of Assessments: Remedies of the Association: Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 8% per annum. The Association may bring an action at law against the Owner

personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Unit.

Section 7: Subordination of the Lien to Mortgage: The lien of the assessments provided herein shall be subordinate to the lien of any mortgage. Sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE V

### ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or a representative appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. In addition, the interior window blinds for each Unit must be white 2" wide plantation blinds and any "for sale" or "for rent" signs must be approved by the Board or its appointed representative.

## ARTICLE VI

### EXTERIOR MAINTENANCE

Maintenance of the Unit and its improvements, both interior and exterior, are the responsibility of the owners of their respective Unit.

## ARTICLE VIII

### RESTRICTIVE COVENANTS

- (a) **Paying Dues:** Fees are to be received by the 10<sup>th</sup> of the month. Afterward, a 10% late charge penalty will be assessed. Any account with a balance after the 30<sup>th</sup> of the month will be assessed an additional 1.5% penalty per month. These fees and penalties may be amended by the Board of the Association.

- (b) Pets must be on a leash accompanied by Owner when outside. Animals cannot be fastened or chained outside the Units in any manner or at anytime. Dogs are to be walked on lawn and Owner is to pick up after pet at all times.
- (c) Any landscaping around the Unit must be approved in advance by the Board of Directors.
- (d) Parking Areas: The Driveway serving a specific Unit is Limited Common Area and may only be used by that Unit Owner and his or her guests and invitees.
- (e) Due to limited parking facilities, boats, campers, other recreational vehicles, etc., cannot be stored or parked on premises.
- (f) All vehicles must be operable and properly tagged, or they must be removed from the property immediately. No extensive car repairs are allowed.
- (g) All Owners and residents of this complex must be registered with the Association, providing name, vehicle(s), license number(s), and telephone number(s).
- (h) No combustible goods or materials shall be stored on the property.
- (i) Homeowners must have approval, in advance, from the Board of Directors prior to making any alterations to the decks attached to the Units. Garbage left on decks will be removed and Owner of Unit will be charged \$50.00 per occurrence. If Unit is rented, it will be the responsibility of the Owner to collect the fees from the renter. The fine will be charged to the Owner's account.
- (j) Any damages, accidents or disturbances at the complex are to be reported to the Association Management.
- (k) All Leases are to be for a term of no less than one (1) year. No assignments or subletting of any Lease is permitted. All Leases must be submitted to the Board of Directors for approval. All Leases shall include a copy of the Rules and Regulations of the Homeowners Association. A fine of up to \$1,000.00 may be levied for non-compliance by a Landlord Homeowner.
- (l) Satellite dishes may be no larger than 18" in diameter and can only be attached in a location to be approved by the Homeowner's Association.
- (m) Any additions, changes and/or alterations to the exterior of a unit or its deck can be done only with the written approval of the Association entered in the minutes of the Board of Directors of the Association.
- (n) Homeowners are responsible for removal of ice and snow from their decks.
- (o) All proposed landscaping and planting of ornamentals in the common area shall be submitted in advance for approval by the Homeowners Association.

## ARTICLE IX

### GENERAL PROVISIONS

**Section 1: Enforcement:** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declarant. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2: Severability:** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

**Section 3: Amendment:** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than fifty-one percent (67%) of the Unit Owners. Any amendment must be recorded. Declarant may amend this instrument for five (5) years without the approval of the Owners.

**Section 4: Future Development:** The Declarant, for its own benefit and that of its successors and assigns does specifically reserve the right to add additional property and create additional unit lots to this subdivision and to be governed and restricted pursuant to this declaration.

IN WITNESS WHEREOF, the undersigned, a duly authorized officer of GARY PHILLIPS CONSTRUCTION, LLC has set his name in behalf of said company on this the day and date first above written, and acknowledges that he is duly authorized and empowered to sign this document in behalf of said company.

GARY PHILLIPS CONSTRUCTION, LLC

BY: 

GARY D. PHILLIPS, President and Chief  
Manager

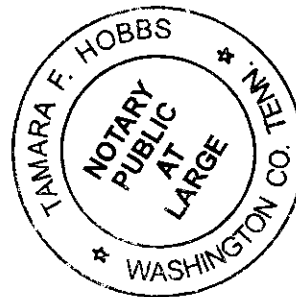
STATE OF TENNESSEE  
COUNTY OF WASHINGTON

Before me, Tamara F. Hobbs, of the State and County aforesaid, personally appeared GARY D. PHILLIPS, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the President and Chief Manager of GARY PHILLIPS CONSTRUCTION, LLC, the within named bargainer, a limited liability company, and that he as such President and Chief Manager, executed the foregoing instrument for the purpose therein contained, by signing the name of the company by himself as such President and Chief Manager.

WITNESS my hand and seal at office in the State and County aforesaid on this the 2nd day of September 2009.

Tamara F. Hobbs  
Notary Public

My commission expires: 03/06/10





**EXHIBIT C**  
**BY-LAWS for the COLDWATER COVE TOWNHOUSE OWNERS, INC.**

**ARTICLE I**

All of the owners of units within COLDWATER COVE SUBDIVISION as recorded in Plat Book 20, page 152, and may be added by future Amendment to said Declaration or Plat, shall constitute the membership of COLDWATER COVE TOWNHOUSE OWNERS, INC., a non-profit corporation. The purpose of this corporation is to administer on a non-profit basis and through a Board of Directors to elect officers, and from time to time supplement these By-Laws and assist in administration, and to do and perform any and all other things, matters and acts required by or permitted by the membership as an assembly under the Laws of the State of Tennessee.

**ARTICLE II**

**Section 1:**

**MEETING AND VOTING RIGHTS OF THE CO-OWNERS**

The owner or owners of a unit who have become such in compliance with all of the requirements and conditions precedent contained in the Declaration and these By-Laws shall be entitled to attend and vote at all meetings of the membership of this property owners association.

**Section 2:**

**VOTING RIGHTS**

The owner or owners of a unit shall be entitled to one vote at all meetings of the membership. Where two or more persons own the unit, the vote allocated to that unit shall be cast by the one authorized by such owners; where only one of two or more owners of a unit is present in person at a meeting, such one shall be entitled to cast the vote with respect to that unit.

**Section 3:**

In the event a partnership, trustee or corporation or other entity owns a unit after having complied with all conditions precedent contained in the deed, including these By-Laws, the vote of such may be cast by a partner, trustee or officer of same, or by any person authorized in writing by a partner, trustee or officer to represent the same.

**Section 4:**

**PROXYS**

Votes may be cast in person or by proxy; proxys to be valid shall be in writing for the particularly meeting designated therein and shall be filed with the Secretary of the meeting prior to voting.

**Section 5:**

**ANNUAL MEETINGS**

The annual meeting of the membership of the COLDWATER COVE TOWNHOUSE OWNERS, INC. shall be held at the Property Site on the first Monday of February of each year after the sale of all of the units including those in future phases, for the purpose of electing a Board of Directors and of transacting any other business authorized at that time, provided, however, that the Board may choose to meet at such other time.

**Section 6:**

**SPECIAL MEETINGS**

Special meetings of the membership shall be held whenever called by the President and Secretary, or by a majority of the administrative board, or by written request of one-third of the entire number of co-owners. When a special meeting is so called, the Secretary shall mail written notice of the meeting to all co-owners.

**Section 7:**

**NOTICE**

Notice shall be given to all co-owners of meetings stating time, place and purpose for which the meeting is called. Such notice shall be in writing and shall be mailed to each member at his address as it appears on the books of the Association, or may be mailed or delivered to his unit, not less than seven days or no more than fifteen days before the meeting. Proof of such mailing or delivery may be given by the written statement of the Secretary or other person giving the notice. Notice of a meeting may be waived before or after the meeting.

**Section 8:**

**QUORUM**

A quorum at any meeting of the membership shall consist of persons entitled to cast at least a majority of the votes of the entire number of unit co-owners. The affirmative vote of a majority of co-owners, being more than fifty percent of the total number of units in attendance, is required to adopt a resolution, elect any officer or director, except that these By-Laws and the system of administration may be modified only in the manner hereinafter set forth.

**Section 9:  
PRESIDING OFFICER**

The President of this non-profit corporation shall preside over all meetings, and the Secretary shall take and keep the minutes and minute books of all council meetings wherein adopted resolutions shall be recorded.

**ARTICLE III  
Board of Administration**

Section 1: The administration of COLDWATER COVE TOWNHOUSE OWNERS, INC., its business and affairs, and of the general common elements therein, shall consist of not less than three persons nor more than ten persons. Except for the initial members, each member of the Board of Directors shall either be the owner of a unit or of an interest therein, or in the event of ownership of a unit by a corporation, partnership or other entity, a partner, trustee or officer or other designated representative thereof.

**Section 2:  
ELECTION OF ADMINISTRATORS**

The council of co-owners shall, at their annual meeting, elect the Board of Administration. Each owner or co-owners of a unit shall be entitled to one vote per unit for each of the Administrators to be elected. A majority of co-owners, constituting more than fifty percent of the total number of units, shall be necessary for the election of a director. Each owner or co-owners of a unit, on each ballot, is required to cast his vote for as many persons as there are Administrators to be elected.

**Section 3:  
VACANCIES**

Vacancies in the Board of Administrators may be filled until the date of the next annual meeting by the remaining administrators.

**Section 4:  
TERM**

The term of each administrator's service shall extend until the next annual meeting of the council of co-owners and thereafter until his successor is duly elected by the council of co-owners and qualified or until he is removed in the manner elsewhere provided.

**Section 5:  
ORGANIZATION MEETING**

The organizational meeting of a newly elected Board of Administration shall be held within one week of their election at such place and time as shall be fixed by the administrators at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary, provided a quorum shall be present.

**Section 6:  
REGULAR MEETINGS**

Regular meeting of the Board of Administration may be held at such time and place as shall be determined from time to time by a majority of the Board. Notice of regular meetings shall be given to each administrator personally or by mail, telephone, or telegraph at least three days prior to the day named for such meeting unless such notice is waived.

**Section 7:  
SPECIAL MEETINGS**

Special meetings of the Board may be called by the President and must be called by the Secretary at the written request of a majority of the members of the Board. Not less than three days' notice of the meeting shall be given, personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

**Section 8:  
WAIVER OF NOTICE**

Any administrator may waive notice of a meeting before, at any or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

**Section 9:  
QUORUM**

A quorum at Administrators' meetings shall consist of the Administrators entitled to cast a majority of the votes of the entire board. The acts of the board approved by a majority of votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Administration except as specifically otherwise provided in the Declaration or elsewhere in these by-laws. If, at any meeting of the Board of Administration, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At an adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice, at a future date announced at the original meeting.

**Section 10:  
PRESIDING OFFICER**

The President of the Board of Administration shall preside at all meetings of the Board. The Secretary of the Board shall serve as secretary of all meetings of the Board. In the absence of either, the Board shall designate one of their number to preside or to serve as Secretary, as the case may be.

**Section 11:  
COMPENSATION**

No compensation shall be paid to any member of the Board or to any officer for service as such. Any member of the Board or any officer may be reimbursed for expenses actually incurred by him, upon approval by the Board.

**Section 12:  
REMOVAL**

Any member of the Board may be removed and relieved of duty as such by the vote of owners representing a majority of the total of units at any regular or special meeting duly called and convened of the council of co-owners. The vacancy created by such removal may be filled by the council of co-owners at the meeting at which such director was removed.

**ARTICLE IV  
Board of Administration**

**I. The Board of Administration shall elect, from its members:**

A. A President, who shall be the chief administrative officer of the Board; shall execute contracts and agreements in the name and behalf of the Board when directed by the Board; shall preside at all meetings and shall perform such other duties as the chief administrative officer of the Board as it may, from time to time, direct;

B. A Vice President, who shall, in the absence or disability of the President, preside at all meetings and perform all duties of the President.

C. A Secretary, who shall keep the minutes of all meetings and proceedings of the council of owners and of the Board of Administration. He shall attend to the giving and serving of all notices to the owners of meetings of the council of owners, and to the administrators at meetings of the Board of Administration. He shall keep all other records of the council of owners and of the Board. An Assistant Secretary may also be elected to perform the duties of the Secretary when the Secretary is absent; and

D. A Treasurer, who shall have the custody of all property of the Board, including funds, securities, evidences of indebtedness, books, assessment rolls and accounts of the owners. He shall keep the books in accordance with good accounting practice, and he shall perform all other duties incident to the office of Treasurer. No compensation shall be paid to any administrator or officer for services as such, except upon approval by the council of co-owners. This provision shall not preclude, however, the Board of Administration from employing an independent contractor for the above services or employing an officer or administrator as an employee of the association, such as a manager or as a bookkeeper, auditor, attorney or the like. All monies and funds of the Board of Administration shall be deposited in such bank or banks as may be designated from time to time by the Board of Administration. Withdrawals of monies from such accounts in banks shall be only by checks or drafts signed by such persons or as are authorized by the Board of Administration.

An audit of the accounts and books of the Board of Administration shall be made annually by a certified public accountant, and a copy of the report shall be furnished to each co-owner not later than February 1 of the year following the year for which the report is made.

Fidelity Bonds shall be required by the Board of Administration covering all officers and employees of the Board and any agents or managers handling or responsible for funds of the Board of Administration for assessments made of members. The amount of such bond or bonds shall be determined by the Board of Administration for assessments made of members. The amount of such bond or bonds shall be determined by the Board of Administration but shall be at least in the amount of the total annual assessments against members for common expenses. Premiums on such bonds shall be paid by the Board of Administration from the maintenance fund.

Parliamentary Rules, Robert's Rules of Orders (latest edition) shall govern the conduct of meetings of the Council of Co-owners and of the Board of Administration, subject to any paramount provisions of the statutes of Tennessee and provisions of the Declaration, including these by-laws.

## **ARTICLE V**

### **Powers of the Board of Administration**

In addition to the rights, powers and duties conferred upon the Board of Administration by the Declaration, the Acts of Tennessee and by other provisions of these by-laws and without in anywise limiting the same, the Board of Administration shall have the following additional and cumulative rights, powers and duties:

- A. To hold title and possession to funds and property, including the maintenance funds and other assessments, and including title to any purchased unit or purchased leasehold interest pursuant to the options hereinabove conferred, as trustee for the use and benefit of the co-owners of units;
- B. To collect maintenance fund assessments against members to defray the costs of the subdivision, including without limitation, all costs and expenses of maintaining, repairing, replacing, improving, altering, operating and administering the building and common elements and of engaging all necessary services and employees therefore,
- C. To collect unit purchase assessments in proper cases and to exercise options to purchase, where deemed in the best interest of a majority of co-owners, to consummate such purchases and to take title as trustees to the unit purchased for the benefit of the other co-owners;
- D. To use the proceeds of assessments in the exercise of its powers and duties;
- E. The maintenance, repair, replacement, operation and administration of the subdivision property, including building and limited and general common elements, which includes but is not limited to a reasonable right of entry upon any unit to make emergency repairs and to do other work reasonable necessary for the proper maintenance and operation of the project;
- F. The reconstruction of improvements after casualty and the further improvement of the property, including building and common elements;
- G. To make and amend regulations respecting the use of the property in the development, including the buildings and common elements;
- H. To enforce by legal means, or otherwise, the provisions of the Declaration, restrictions and by-laws and the regulations for the use of the property in the development;
- I. To pay any taxes and assessments which are liens against any part of the development other than individual units.
- J. To carry insurance for the protection of unit owners and the Property Owners Association against casualty and liabilities;
- K. To pay the cost of all power, water, sewer and other utility services rendered to the development and not billed to owners of individual units; and
- L. To grant permits, easements and licenses over the common areas for utility and roads, and other purposes necessary or useful for the proper maintenance and operation of the project; to perform the services rendered for proper administration of the development, including without limitation, auditors, attorneys, bookkeepers, and managers.
- M. Nothing contained in these By-Laws shall be construed to obligate the Association to repair, rebuild or insure any structure located on a specific lot.

## **ARTICLE VI**

### **1. Liens for Unpaid Assessments.**

The Association shall have a lien on the unit of any owner whose assessment, either annual or special or any installment thereof, has not been paid by the due date for payment thereof. No such lien shall be prior to the lien of any mortgage or deed of trust on any one or more units to the extent the lien accrued after the recording date of such mortgage or deed of trust.. All owners expressly waive any right to homestead or other statutory exemption they may have with respect to such lien, and expressly waive any right of redemption should such lien be foreclosed. Liens may be filed in the Office of the Register of Deeds for Washington County, Tennessee.

### **2. Collection of Assessments.**

The Association shall determine the amount, times and methods for payment of the common expense assessments and shall take prompt action to collect any assessment from any owner who is in default in the payment of his assessment. An owner is in default when his assessment remains unpaid for ten (10) days after the due date for payment thereof.

### **3. Default in Payment of Assessments.**

In the event of default by any owner in paying any assessment, or installment thereof, owed by him, the Board of Directors may, in its sole discretion, accelerate the owners' monthly installments and declare the entire remaining balance of the annual assessment immediately due and payable. In the event of default, all sums due and payable by the owner shall, in the discretion of the Board of Directors, bear interest at the highest rate permitted by law. The Board of Directors may maintain a suit to recover a money judgment for unpaid assessments or may maintain an

action to foreclose the lien on a unit. The Board of Directors, acting on behalf of the Association and all owners, shall have the right to purchase such unit at the foreclosure sale. In any action brought by the Board of Directors because of unpaid assessments, the owner shall be required to pay a reasonable rental for the use of his unit and the Board of Directors in such action shall (subject to the prior right of any mortgagee) be entitled to the appointment of a receiver to collect the same. In the event of any default, the owner shall be obligated to pay, and shall be liable for all unpaid assessments and interest, together with all expenses, including attorney's fees, incurred by the Board of Directors in any proceeding brought to collect such unpaid assessments whether or not suit has been filed. A suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same. The Association shall be entitled to court costs and reasonable attorney fees.

#### **4. Other Assessments.**

In the event that an owner violates any of the rules and regulations established pursuant to the Declaration, the Board of Directors may, in its discretion, regardless of any other remedies available to the Board of Directors, levy an additional assessment against such subdivision owner committing a violation, provided, however, that in no event shall such additional assessment exceed \$50.00 for each violation, unless otherwise provided in the Declaration.

#### **5. Assessments and Sale or Other Transfers of Units.**

No owner shall be liable for the payment of any part of the common expenses assessed against his unit subsequent to a sale, transfer or other conveyance by him. Such subdivision owner, however, will remain personally liable for any unpaid assessment made prior to the sale, transfer or other conveyance by him. A purchaser or other transferee of a unit shall be personally liable for the payment of a common expense assessed against his unit prior to the acquisition by him of such unit. Transfer of a unit pursuant to a foreclosure of a first mortgage shall extinguish a subordinate lien for common expense charges and assessments which may become payable prior to such sale or transfer. Any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of a unit from liability for, nor the unit so sold or transferred from the lien of, any common expense charges thereafter coming due.

#### **6. Statement of Unpaid Assessments.**

The Board of Directors shall promptly provide any owner requesting in writing, a written statement of all unpaid assessments due from such owner. In no event shall any unpaid assessment be demanded and collected which exceeds the amount in the statement claimed to be due and payable. The Board of Directors may in its discretion charge a reasonable fee for providing such statement to an owner.

### **ARTICLE VII**

#### **Amendment to Documents**

(1) The consent of owners of units to which at least 67 percent of the votes in the Owners Association are allocated, shall be required to materially amend any provisions of the declarations, by-laws or equivalent documents of the subdivision, or to add any material provisions thereto which establish, provide for, govern or regulate any of the following except that the developer during the construction and sales of units may amend these By-laws, the Declaration and Restrictions from time to time without approval of any person, owner or group:

- (a) Voting
- (b) Assessments, assessment liens or subordination of such liens.
- (c) Reserves for maintenance, repair and replacement of the common elements.
- (d) Insurance fidelity bonds.
- (e) Rights to use of the common elements
- (i) Responsibility for maintenance and repair of several portions of the subdivisions.
- (g) Expansion or contraction of subdivision regime or the addition, annexation or withdrawal of property to or from the regime.
- (h) Boundaries of any unit.
- (i) Interest in the general or limited common elements.
- (j) Convertibility of units into common elements or of common elements into units.
- (k) Leasing of units.
- (l) Imposition of any right of first refusal or similar restriction on the right of an owner to sell, transfer or otherwise convey his or her unit in the subdivision.
- (m) Establishment of self management by the subdivision association where professional management has been required by any of the agencies or corporations.

## **ARTICLE VIII**

### **Insurance**

(a) The owner of each unit shall maintain insurance at 100% replacement cost for loss on his or her subdivision unit interior and exterior and shall pay the premium thereon.

(b) The homeowners' association shall obtain, maintain and pay the premiums upon, as a common expense, a policy of property insurance covering all common elements and limited common elements, (except land, foundation, excavation and other items normally excluded from coverage) including fixtures, to the extent that they are a part of the common elements of the subdivision, building service equipment and supplies, and other common personal property belonging to the Owner's Association at 100% replacement cost.

The name of the insured under such policies must be set forth therein substantially as follows: "Association of COLDWATER COVE TOWNHOUSE OWNERS, INC., for Use and Benefit of the Individual Owners."

(c) The homeowners' association must maintain comprehensive general liability insurance coverage covering all of the common elements owned by the Owner's Association and public ways of the subdivision project.

(d) Notwithstanding any of the foregoing provisions and requirements relating to property and liability insurance, there may be named as an insured, on behalf of the Owner's Association, the Owner's Association's authorized representative, including any trustee with whom such Owner's Association may enter into an insurance trust agreement or any successor to such trustee who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as necessary to accomplish this purpose.

## **ARTICLE IX**

### **Rights of Owners, Perspective Purchasers, Lenders and Insurers of Mortgages**

The owners association shall be required to make available to unit owners, lenders and the holders of the first mortgage on any unit, current copies of the declaration, by-laws and other rules governing the subdivision, and other books, records and financial statements of the owners association. The owners association also shall be required to make available to prospective purchasers current copies of the declaration, by-laws, other rules governing the subdivision, and the most recent financial statement, if such is prepared. "Available" shall at least mean available for inspection upon request, during normal business hours or under other reasonable circumstances.

## **ARTICLE X**

### **Rights to Financial Statements**

Any agency or corporation having a financial interest in the subdivision development shall have a right upon request to a financial statement for the preceding year.

## **ARTICLE XI**

### **Transfer of Control**

The Developer of this Subdivision Community shall be vested with the powers and authority of the Board of Administration until the project is finished and all units have been sold. Likewise he shall have one vote for each and every unsold unit whether finished or not, including anticipated units in future phases. The developer shall relinquish all special rights, expressed or implied, to which the developer may directly or indirectly control, direct, modify or veto any action of the owner's association, its board, or majority of unit owners, and control of the owner's association shall pass to the owners of units within the project, not later than the earlier of the following:

1. 30 days after the date by which 100% of the units have been conveyed to unit purchasers or,
2. Within 5 years following the first conveyance to a unit purchaser, in that phase of development.

## **ARTICLE XII**

### **Rights of Action**

The owners association and any aggrieved unit owner shall be granted a right of action against owners for failure to comply with the provisions of the restrictions, by-laws, or equivalent documents, or with decisions of the owners association which are made pursuant to authority granted the owners association in such documents. Owners shall have similar rights of action against the owners association.

**ARTICLE XIII**  
**Construction**

These by-laws are intended to be read in conjunction with the Declaration, and restrictions and if there is any conflict between the by-laws and the said Declaration and restrictions, the Declaration and restrictions shall control.

COLDWATER COVE TOWNHOUSE OWNERS, INC.

BY   
GARY D. PHILLIPS, President

**ATTEST:**  
Secretary